Before the
Federal Communications Commission
Washington, DC 20554

ORIGINAL

DOCKET FILE COPY ORIGINAL

In the Matters of	)	
Deployment of Wireline Services Offering	)	
Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	
and	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of the	)	
Telecommunications Act of 1996	)	

COMMENTS OF WORLDCOM IN RESPONSE TO THE PETITIONS FOR RECONSIDERATION OF SBC, VERIZON, QWEST, AND BELLSOUTH

Richard S. Whitt
Cristin L. Flynn
WorldCom, Inc.
1801 Pennsylvania Ave., NW
Washington DC, 20006
(202)887-3234

EXECUTIVE SUMMARY

WorldCom, Inc. ("WorldCom") submits its comments in opposition to the petitions for reconsideration filed by Verizon Telecommunications, Inc. ("Verizon"), BellSouth Telecommunications Inc. ("BellSouth"), SBC Communications Inc. ("SBC"), and Qwest Corporation ("Qwest"), which seek relief, in various forms, from the collocation provisioning timelines and tariff amendment requirements of the Collocation Order. All of the ILEC petitions allege that the 90-day provisioning requirements of the Collocation Order must be struck down, with claims ranging from "it will be a burdensome task" (BellSouth) to the demand that an additional 41 days are needed for lead and asbestos abatement (Verizon). Qwest states that the rule applies only when parties have failed to agree, or a state has not set its own standard. SBC argues that competitive local exchange carriers ("CLECs") could "dump" hundreds of collocation demands on ILECs, making it impossible to meet the FCC's deadline. All of the ILECs claim that they cannot satisfy the provisioning requirement, under almost any circumstances.

The ILECs are also creative in their arguments as to why they should be exempted from the requirements to amend relevant tariffs and statements of generally accepted terms ("SGATs") at the state level. The ILECs claim that the obligation to file amendments is either burdensome, unnecessary, or duplicative.

The ILECs' petitions are a thinly-veiled attempt to circumvent the requirements of the 1996 Act. The ILECs had been so successful in negating the collocation requirements of the 1996 Act that merely acknowledging these requirements of the Collocation Order is a necessary first step towards compelling the ILECs to adhere to their statutory obligation to foster

competition by facilitating collocation. The Commission should not be distracted by the ILECs' claims to set aside the intervals set in the Collocation Order in order to better provision collocation space and meet the needs of CLECs seeking to offer facilities-based service. The Commission correctly determined that the 90-day interval was both reasonable and necessary, and the Collocation Order should be upheld.

TABLE OF CONTENTS

Before the
Federal Communications Commission
Washington, DC 20554

In the Matters of	)	
Deployment of Wireline Services Offering	)	
Advanced Telecommunications Capability	)	CC Docket No. 98-147
	)	
and	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of the	)	
Telecommunications Act of 1996	)	

COMMENTS OF WORLDCOM IN RESPONSE TO THE PETITIONS FOR RECONSIDERATION OF SBC, VERIZON, QWEST, AND BELLSOUTH

INTRODUCTION

WorldCom, Inc. ("WorldCom") submits its comments in opposition to the petitions for reconsideration filed by Verizon Telecommunications, Inc. ("Verizon")[1], BellSouth Telecommunications Inc. ("BellSouth")[2], SBC Communications Inc. ("SBC")[3], and Qwest Corporation ("Qwest")[4]. The incumbent local exchange carriers ("ILECs") seek, *inter alia*

---

[1] Verizon Petition for Reconsideration, CC Docket Nos. 98-147, 96-98, dated October 10, 2000 ("Verizon Petition").

[2] BellSouth Petition for Clarification, CC Docket Nos. 98-147, 96-98, dated October 10, 2000 ("BellSouth Petition").

[3] SBC Petition for Reconsideration, CC Docket Nos. 98-147, 96-98, dated October 10, 2000 ("SBC Petition"), see also Motion to Supplement SBC's Petition for Conditional Waiver, CC Docket No. 98-147, dated October 27, 2000 (received October 31, 2000) (seeking to join Verizon's request that the New York collocation intervals be adopted in lieu of the Commission's 90 day rule, and admitting that its request for staggered collocation intervals had not been considered by the Commission in its Collocation Order).

[4] Qwest Petition for Clarification, Or In The Alternative, For Reconsideration, CC Docket Nos. 98-147, 96-98, dated October 10, 2000 ("Qwest Petition").

reconsideration of those portions of the Collocation Order[5] that require ILECs to provide for collocation within 90 days of receipt of a valid request from a competitive local exchange carrier ("CLEC"), and a waiver of the requirement to file amendments with the states of relevant tariffs and statements of generally accepted terms ("SGATs"). WorldCom requests that the Commission affirm its Collocation Order, and deny the ILECs' requests to eliminate the terms of paragraphs 33 and 36.

ARGUMENT

I. THE COMMISSION'S 90 DAY PROVISIONING RULE IS REASONABLE

In order to encourage progress, as well as compliance with the 1996 Act, the Commission determined that national provisioning standards were necessary to promote competition to provide facilities-based advanced services.[6]

The Commission reasonably believes that the record supports the conclusion that provisioning must occur within 90 days in order for CLECs to be competitive.[7] WorldCom's experience, as noted in its response to Verizon's Petition for a Conditional Waiver, also supports this conclusion. WorldCom appended a letter from Verizon indicating that a certain100 square foot collocation space request submitted earlier this year would take roughly eleven months and

---

[5] In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Order on Reconsideration and Second Further Notice of Proposed Rulemaking and Fifth Further Notice of Proposed Rulemaking, CC Docket Nos. 98-147, 96-98, (August 10, 2000) (Collocation Order).

[6] Id. at ¶ 21.

[7] Id. at ¶ 29.

three weeks to complete, if at all.[8] As this case example demonstrates, without specific action by the Commission and the states, the ILECs will continue to delay and hamper the deployment of advanced services.

The Commission noted in the Collocation Order, that actions by state commissions have caused collocation intervals to drop significantly across the country over the past eighteen months.[9] The FCC cited Texas and Pennsylvania as having collocation periods that ranged from 55 days to 90 days[10], and Florida's three-month requirement as well.[11] The majority of states, however, had not set concrete collocation deadlines, and the Commission determined that, "as a consequence, physical collocation has not been provisioned as quickly as we anticipated. . . .This lack of progress has impeded competitive LECs' ability to provide facilities-based service throughout the country."[12] In response to this contriving threat to competition, the Commission created the provisioning rule now under attack by the ILECs. The Commission's rule is reasonable, and based upon the record developed in the collocation proceeding, and should not

---

[8] See letter from Steven J. Pitterle, Director-Negotiations of Verizon Network Services, to John A. Trofimuk, Regional Executive, Central Region, WorldCom, dated October 13, 2000, at 1, annexed as Attachment A to WorldCom's Opposition to the Petition of Verizon for a Conditional Waiver. In that letter, Verizon noted "project in jeopardy. Cage is built but DS3 will not be available until 2/28/01 and DC power will not be available until 1Q01. Currently, no additional space is available in the office for a new DSX bay to terminate the DS3s." WorldCom applied for the space on March 24, 2000, and Verizon took seven months to issue a status report.

[9] Collocation Order at ¶ 17.

[10] Id. at ¶¶ 17-18.

[11] Id. at ¶ 19.

[12] Id. at ¶ 20.

be vacated.[13]

As the Commission stated, provisioning can take place easily in many circumstances, and in time frames as brief as fifteen days.[14] The 90-day standard is thus the "outer limits of performance that [the Commission] would generally find consistent with the reasonableness standard in section 251(c)(6).[15] The states have supported this conclusion.[16]

II. THE COMMISSION'S USE OF NATIONAL PROVISIONING STANDARDS IS REASONABLE AND WITHIN THE COMMISSION'S JURISDICTION

As the Commission recognized, the timely ability to provision collocation space is essential to the deployment of broadband services to all Americans.[17] Since 1992, ILECs have been obligated to provide both physical and virtual collocation. Congress expressly provided for both physical and virtual collocation in § 251(c)(6) in the Telecommunications Act of 1996, requiring ILECs to provide just and reasonable collocation as a matter of law.[18]

Four and a half years since the 1996 Act, we are still faced with the reality that the ILECs "have an economic incentive to interpret regulatory ambiguities to delay entry by new

---

[13] Chevron, U.S.A., Inc. v. National Resources Defense Council, 467 U.S. 837, 842-43, 104 S.Ct. 2778 (1984); Reservation Telephone Cooperative v. FCC, 826 F.2d 1129 (D.C. Cir. 1987).

[14] Collocation Order at ¶ 31.

[15] Id. at ¶ 31 n.79.

[16] Id., citing North Carolina PUC's 15-day provisioning interval, and similarly short timelines in Texas.

[17] Id. at ¶ 17.

[18] 47 U.S.C. § 251(c)(6).

competitors."[19] Verizon's claim that CLECs would benefit if the Commission adopted the New York standard is another example of the ILECs' attempt to delay competitive entry.[20] There is no evidence that, despite any perceived open market conditions in New York, that those conditions exist elsewhere, and that all states should be forced to adhere to the New York standard. A 90 day national standard, in the absence of state action, is a fair and reasonable position for the Commission to promote facilities-based competition.

The Commission has ample jurisdiction to set national provisioning standards for collocation, as the Supreme Court held in AT&T v. Iowa Utilities Board, 525 U.S. 366, 378 (1990). Accordingly, WorldCom agrees that it is an appropriate exercise of the Commission's authority to establish provisioning standards in the absence of state action or contractual agreement by parties.[21] As the Commission notes, ILECs "can take advantage of collocation provisioning delays to lock-up customers in advance of competitive entry."[22]

The Commission provisioning schedule for ILECs requires a response to a CLEC application for collocation space within ten days of such an application.[23] WorldCom strongly

---

[19] First Report and Order, In the Matters of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98, 95-185 (August 8, 1996) at ¶ 558 (Local Competition Order).

[20] Verizon Petition at 5.

[21] Collocation Order at ¶ 21.

[22] Collocation Order n.54, citing In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-238, (released Nov. 5, 1999 (UNE Remand).

[23] Collocation Order at ¶ 24.

supports the Commission's reasoning that the ILECs have had "more than ample time since the enactment of section 251(c)(6) to develop internal procedures sufficient to meet this deadline."[24] Barring extremely exigent circumstances, ten days is sufficient to respond to a CLEC application for collocation. In the event those circumstances were to arise, state commissions are well equipped to arbitrate such disputes.

In order to implement collocation more effectively and to eliminate further anti-competitive action by the ILECs, the FCC determined that the ILEC

> Should be able to complete any technically feasible physical collocation arrangement, whether caged or cageless, no later than 90 calendar days after receiving an acceptable collocation application, where space, whether conditioned or unconditioned, is available in the incumbent LEC premises and the state commission does not set a different interval or the incumbent and requesting carrier have not agreed to a different interval.[25]

In absence of a showing to a state commission, the provisioning period should not take any longer than 90 days, in any instance.[26] There is no basis to modify paragraph 36 of the Collocation Order.

III. THE OBLIGATION TO FILE TARIFF AND SGAT AMENDMENTS IS REASONABLE AND PROVIDES STATES AND CLECS WITH NOTICE IN THE ABSENCE OF A SPECIFIC STATE STANDARD

The ILECs all seek relief from the obligation to file amended tariffs or SGATs with state commissions.[27] Verizon, Qwest, SBC, and BellSouth all assert that in instances where an SGAT

---

[24] Collocation Order at ¶ 24.

[25] Id. at ¶ 27.

[26] Id. at ¶ 31.

[27] SGATs are generally used as a default to declare collocation intervals in instances where CLECs have not yet signed interconnection agreements, or a state has not taken specific

is pending before a state, that is sufficient to prevent the application of the FCC's national standard, under section 252(f)(3).[28] They seek to bootstrap the collocation timelines set forth in SGATs - documents prepared entirely by ILECs and generally prior to interaction with CLECs seeking collocation in a particular area - into binding state precedent that precludes the application of the national standard. However, absent specific action by the state, the FCC's rule is intended to apply. While section 252(f)(3) permits SGATs to be deemed granted after 60 days[29], the ILECs' belief that passive "acceptance" by the state is sufficient action to override the national standard is patently false.

Qwest claims, as does BellSouth and SBC, that the Collocation Order creates an inconsistency when interpreted against the amendment requirements of paragraph 36, the result of which is to create sufficient grounds for a waiver on the ILECs' behalf. Qwest argues that the inconsistency allows for ILECs to exempt themselves from the SGAT amendment requirements of paragraph 36, if a state authority has "permitted the intervals. . . to take effect."[30] However, the language of paragraph 22 specifically states that "a state could set its own standards by statute, through an existing or future rulemaking order, by enforcing a state tariff, or by applying the precedent of a state arbitration decision."[31] Thus, so long as the action by the state falls into one of the specific proactive situations carved out by the Commission, an ILEC is not required to

---

regulatory or legislative action.

[28] See, e.g., Qwest Petition at 8.

[29] See 47 U.S.C. § 252(f)(3).

[30] Qwest Waiver at 2.

[31] Collocation Order at ¶ 22.

file an amendment.

BellSouth similarly attempts to purvey the passive acquiescence of a state regulator on a one-sided SGAT application to a statewide collocation standard that supercedes federal regulation.[32] BellSouth claims that compliance with the Order on Reconsideration "would be a burdensome task with no recognizable tangible benefit."[33] Spoken like a true ILEC. The national collocation provisioning standards set forth by the Commission clearly state that the standards are in lieu of state action, and cites specifically, "by statute, through an existing or future rulemaking order, by enforcing a state tariff, or by applying the precedent of a state arbitration decision."[34]

The Commission recognized that national standards are necessary because ILECs "will continue to delay unreasonably competitive LECs' build-out of their facilities."[35] This standard comes after four years of non-compliance with the 1996 Act's collocation requirements, and countless state proceedings dealing with ILEC-imposed barriers to facilities-based competition. The ILECs should not be permitted to bootstrap these default, unchallenged applications, that are passively accepted by states, to circumvent the national standards, and the obligation to amend their relevant tariffs and SGATs to reflect the FCC's rule.

---

[32] Verizon adopts the same argument in its Petition, and claims that the national standard is not necessary when a state is "considering the issue." Verizon Petition at 14. This is a far cry from the state exceptions set forth in paragraph 36 of the Collocation Order.

[33] Bell South Waiver at 4.

[34] Collocation Order at ¶ 22.

[35] Id. at 22.

IV. THE ALTERNATIVE COLLOCATION TIMELINES PROPOSED BY THE ILECS WILL NOT SATISFY THE COMMISSION'S REQUIREMENT OF ACCELERATING COLLOCATION AND COMPETITION

Each of the ILECs propose alternative collocation standards, and all cite a multitude of reasons why they cannot comply with the Commission's 90-day rule. Despite their claims, the reality of ILECs' intransigence is a reluctance to face competition from other providers that seek to develop facilities necessary to provide service to consumers.

Verizon claims that "by relying on New York's intervals, a waiver would also give states a model of how one state has addressed in detail the issues associated with setting an interval."[36] However, Verizon fails to offer up other states that provide shorter collocation periods as a model, choosing instead to offer a state that has deployment timelines longer than what is offered as a national standard, and significantly longer than the provisioning period adopted in other states. While the Commission did take note of New York's timelines, it also cited Texas, Pennsylvania, and North Carolina as having shorter provisioning periods. Not surprisingly, Verizon fails to offer up any of these states as a model for the Commission.

SBC argued initially that the Commission should adopt staggered collocation deadlines, that would increase with the number of applications received by an ILEC. SBC alleged a CLEC could "dump" hundreds of collocation demands on ILECs, making it impossible to meet the FCC's deadline. This speculative claim does not merit a reversal of the Commission's 90-day rule. SBC then moved by petition to join Verizon's request that the New York collocation intervals be adopted in lieu of the Commission's 90 day rule, and admitted that its request for staggered collocation intervals had not been considered by the Commission in its Collocation

---

[36] Verizon Petition at 5.

Order.

Qwest requests the Commission adopt the collocation intervals set forth in its draft collocation interval schedule annexed to its Petition. Qwest has failed to support its belief that its' self-created deadlines (which have not been subject to state or federal review) would serve the public interest, and circumvent the 90-day rule of the Commission. Similar to SBC's quandry, the intervals proposed by Qwest are not properly before the Commission for consideration and application in this proceeding.

BellSouth does not take exception to the 90-day collocation intervals, and instead seeks a waiver from the tariff and SGAT amendment filing provisions. Those arguments will be addressed below.

None of the timelines proposed by the ILECs is inherently more reasonable or designed to meet the Commission's goal of accelerating collocation. The laundry lists of reasons for delay provided by the ILECs are intended to demonstrate that collocation is a long and complicated process. The reality is that collocation is only as complicated as the ILECs seek to make it. Of course, ILECs do not encounter months and months of delay when seeking to deploy equipment for themselves or their advanced services affiliates. ILECs do not study asbestos abatement[37], including air monitoring, and testing[38] in every instance they install new equipment. Nor do they engage in a real estate construction evaluation in the event they need additional square footage. Similarly, the impediments cited by SBC - including surface conditions, underground conditions, city code and zoning restrictions, placement of adjacent arrangements, unforseen obstacles, "core

---

[37] Verizon Petition, Declaration of Ralph Carey ("Carey Declaration") at ¶ 17.

[38] Carey Declaration at ¶ 17.

boring" into basements, and augments to adjacent space arrangements - cannot, and will not, arise in each and every instance.[39]

The ILECs all argue that, regardless of the 90-day requirement in the Collocation Order, the rule should be vacated because they simply cannot meet the Commission's timeline. This argument is not at all compelling. Verizon and SBC claim that the Commission should adopt New York's provisioning timelines.[40] Thus, while Verizon and SBC claim that they cannot comply with the Commission's 90-day rule, they seem to believe that the additional 15 days provided by New York permits sufficient time to address all those concerns. WorldCom's position is that this 15-day "buffer" is artificial, and that the Commission's experience reflecting that collocation can be completed well within the 90-day timeline is reasonable, and supported by the conclusion of states like Texas, Pennsylvania, and North Carolina.[41]

The Commission should not be drawn into the ILECs' claims that these extensive steps are necessary for collocation, or that the ILECs cannot meet the deadlines, regardless of the FCC's rule. The 90-day timeline is reasonable, and in the event that an ILEC cannot comply, it can petition a state commission for a waiver in a particular circumstance. The states are correctly charged with the obligation to ensure that ILECs do not use the arbitration process to delay collocation, and to treat intentional delays as a breach of good faith under section 251(c)(1) of the 1996 Act.[42]

---

[39] SBC Petition at 7.

[40] Verizon Petition at 1; SBC Motion at 1.

[41] Collocation Order at ¶ 35 n.79.

[42] Id. at ¶ 35.

V. CONCLUSION

WorldCom respectfully requests that the Commission deny the petitions for clarification or reconsideration of Verizon, SBC, Qwest, and BellSouth. The ILECs must be required to comply with the tariff and SGAT amendment-filing procedures of the Collocation Order. The national standard for collocation proposed by the FCC is inherently reasonable, and the Commission should not modify its finding in the Collocation Order except to affirm its findings that (1) ILECs are continuing to take any and all steps possible to prevent CLECs from providing collocated, facilities-based services, and (2) that Commission intervention is critical to prevent the ILECs from denying these competitive offerings to consumers.

Dated: November 1, 2000

Richard S. Whitt
Cristin L. Flynn
WorldCom, Inc.
Its Attorneys
1801 Pennsylvania Ave., NW
Washington DC, 20006
(202)887-3234

CERTIFICATE OF SERVICE

I, Denise E. Akoto, hereby certify that I have this 1st day of November, 2000, sent a copy of the foregoing " Comments of WorldCom, Inc. " by hand delivery, to the following:

Magalie Roman Salas (one original and four copies)
Office of the Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

The Honorable William E. Kennard
Chairman
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Susan P. Ness
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Harold W. Furchtgott-Roth
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Michael K. Powell
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Gloria Tristani
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Lawrence Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Michelle Carey
Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Katherine Farroba
Deputy Chief, Policy Division
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Staci Pies
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Rodney McDonald
Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-A266
Washington, D.C. 20554

Jane Jackson
Chief, Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-A225
Washington, D.C. 20554

Tamara Preiss
Deputy Chief, Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-A232
Washington, D.C. 20554

Yog Varma
Deputy Bureau Chief Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-C352
Washington, D.C. 20554

Deena Shetler
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room 5-C410
Washington, D.C. 20554

William Bailey III
Counsel ,Common Carrier Bureau Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-C434
Washington, D.C. 20554

Donald Stockdale
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room 5-C354
Washington, D.C. 20554

Thomas Nevin
Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., 5th Floor
Washington, D.C. 20554

International Transcription Service, Inc.
CY-B40000
445 12th Street, S.W.
Washington, D.C. 20554

Anthony J. DeLaurentis
Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., 5th Floor
Washington, D.C. 20554

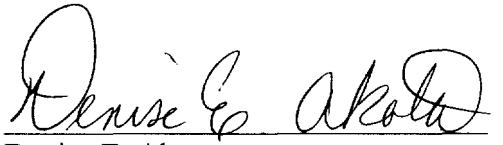
Hope Thurrott
SBC Communications Inc.
1401 I Street, N.W., Suite 1100
Washington, D.C. 20005

Robert B. McKenna
Attorneys for Qwest Communications
Suite 700
1020 19th Street, N.W.
Washington, DC 20036

M. Robert Sutherland
BellSouth Corporation
1155 Peachtree Street, N.E.
Suite 1800
Atlantic, GA 30309

Mark C. Rosenblum
AT&T CORP.
295 North Maple Avenue
Basking Ridge, NJ 07920

John M. Goodman
Attorney for Verizon Telephone Companies
1300 I Street, NW
Washington, DC 20005



Denise E. Akoto